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- and -

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**UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK**

In re:

THE GREAT ATLANTIC & PACIFIC TEA
COMPANY, INC., et al.,¹

Debtors.

THE GREAT ATLANTIC & PACIFIC TEA
COMPANY, INC., et al.,

Plaintiffs,

- against -

PEPSICO, INC.; BOTTLING GROUP, LLC
(d/b/a Pepsi Beverages Company and f/d/b/a
The Pepsi Bottling Group); FRITO-LAY
NORTH AMERICA, INC.; QUAKER SALES
AND DISTRIBUTION, INC.; MULLER
QUAKER DAIRY, LLC; STACY'S PITA
CHIP COMPANY, INC.; PEPSI BOTTLING
GROUP, NJ; and PEPSI USA,
Defendants.

Chapter 11

Case No. 15-23007-rdd

Jointly Administered

Adv. Pro. No. 18-8245-rdd

NOTICE OF APPEAL

¹ The Debtors are: 2008 Broadway, Inc.; The Great Atlantic & Pacific Tea Company, Inc.; A&P Live Better, LLC; A&P Real Property, LLC; APW Supermarket Corporation; APW Supermarkets, Inc.; Borman's, Inc.; Delaware County Dairies, Inc.; Food Basics, Inc.; Kwik Save Inc.; McLean Avenue Plaza Corp.; Montvale Holdings, Inc.; Montvale-Para Holdings, Inc.; Onpoint, Inc.; Pathmark Stores, Inc.; Plainbridge LLC; Shopwell, Inc.; Super Fresh Food Markets, Inc.; The Old Wine Emporium of Westport, Inc.; Tradewell Foods of Conn., Inc.; and Waldbaum, Inc.

The above-named Defendants hereby appeal to the United States District Court for the Southern District of New York, pursuant to 28 U.S.C. § 158 and Rules 8002 and 8004, from the *Order Denying Defendants' Motion for Summary Judgment on Counts One Through Four and Partial Summary Judgment on Counts Five Through Twenty-Five of the Second Amended Complaint*, entered January 2, 2020 (ECF No. 49). A copy of the Order, and the transcript of the hearing referred to therein, are annexed hereto as Exhibits 1-2, respectively. The parties to this appeal and their respective attorneys are:

<p><u>Plaintiffs</u> The Great Atlantic & Pacific Tea Company, Inc.; 2008 Broadway, Inc.; A&P Live Better, LLC; A&P Real Property, LLC; APW Supermarket Corporation; APW Supermarkets, Inc.; Borman's, Inc.; Delaware County Dairies, Inc.; Food Basics, Inc.; Kwik Save Inc.; McLean Avenue Plaza Corp.; Montvale Holdings, Inc.; Montvale-Para Holdings, Inc.; Onpoint, Inc.; Pathmark Stores, Inc.; Plainbridge LLC; Shopwell, Inc.; Super Fresh Food Markets, Inc.; The Old Wine Emporium of Westport, Inc.; Tradewell Foods of Conn., Inc.; and Waldbaum, Inc.</p> <p><u>Attorneys for Plaintiffs</u> David N. Crapo GIBBONS P.C. One Gateway Center Newark, New Jersey 07102 (973) 596-4523 dcrapo@gibbonslaw.com</p>	<p><u>Defendants</u> PepsiCo, Inc.; Bottling Group, LLC (d/b/a Pepsi Beverages Company and f/d/b/a The Pepsi Bottling Group); Frito-Lay North America, Inc.; Quaker Sales and Distribution, Inc.; Muller Quaker Dairy, LLC; Stacy's Pita Chip Company, Inc; Pepsi Bottling Group, NJ; and Pepsi USA</p> <p><u>Attorneys for Defendants</u> Jeffrey Chubak AMINI LLC 116 West 23rd Street, Suite 500 New York, New York 10011 (212) 497-8247 jchubak@aminillc.com - and - Joseph D. Frank Jeremy C. Kleinman FRANKGECKER LLP 1327 West Washington Boulevard, Suite 5G-H Chicago, Illinois 60607 (312) 276-1400 jfrank@fgllp.com jkleinman@fgllp.com</p>
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Dated: January 16, 2020

Respectfully submitted,

/s/ Jeffrey Chubak

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CERTIFICATE OF SERVICE

I certify under penalty of perjury that on January 16, 2020, I filed a copy of the foregoing Notice of Appeal via CM/ECF, causing a Notice of Electronic Filing of the document to be served, pursuant to Rule 9036, by e-mail on Plaintiffs' counsel David N. Crapo at the following address:
dcrapo@gibbonslaw.com

/s/ Jeffrey Chubak_____